

## G. C. BARCO AND W. G. KNOWLES

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MAY 14, 1942.—Ordered to be printed

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Mr. STEWART, from the Committee on Claims, submitted the following

## REPORT

[To accompany S. 1220]

The Committee on Claims, to whom was referred the bill (S. 1220) for the relief of G. C. Barco, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendments:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Attorney General of the United States is hereby authorized and directed to cancel the judgment in favor of the United States against G. C. Barco, and W. G. Knowles, of West Palm Beach, Florida, as sureties on a forfeited bail bond in a criminal proceeding against Courtney Hardin in the United States District Court for the Southern District of Florida.

Amend the title of the bill so as to read:

A bill for the relief of G. C. Barco and W. G. Knowles.

The facts are fully set forth in House Report No. 1865, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

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[H. Rept. No. 1865, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 4796) for the relief of G. C. Barco, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all the language after the enacting clause and insert in lieu thereof—  
“That the Attorney General of the United States is hereby authorized and directed to cancel the judgment entered in favor of the United States against G. C. Barco, of West Palm Beach, Florida, on a forfeited bail bond in a criminal proceeding against Courtney Hardin in the United States District Court for the Southern District of Florida.”

The purpose of the proposed legislation is to cancel judgment entered in favor of the United States against G. C. Barco, of West Palm Beach, Fla., on forfeiture of bail bond in a criminal proceeding against Courtney Hardin in the United States District Court for the Southern District of Florida.

## STATEMENT OF FACTS

It appears that on June 26, 1927, Courtney Hardin was arrested on a charge of violating the National Prohibition Act. On July 2, 1927, he was released on bail in the sum of \$5,000, on which G. C. Barco and W. C. Knowles were sureties. The bond was made returnable at the next term of court, to be held on the fourth Monday in April 1928. Hardin failed to appear at the trial, which was called on May 7, 1928, and on August 4, 1928, the bond was forfeited. On May 1, 1929, the defendant entered a plea of guilty, and was fined the sum of \$250, which was paid. Judgment was entered against sureties on June 6, 1929, which was several days after the defendant entered a plea of guilty. It is represented by the defendant's attorney that neither he nor his client received notice as to the trial date; that upon hearing of the facts, the defendant surrendered.

The whole proposition is that Barco put up a bond for the defendant, Hardin. Hardin did not appear when the case was called, and neither Barco nor Hardin was notified. Evidently, at that time, the bond was estreated but when Barco found out about Hardin's nonappearance, he got in touch with Hardin and they went down to the court and Hardin entered a plea of guilty, and was fined. At that time, estreature was supposed to have been dissolved, and, in fact, it was, as to the other bondsmen, but some way or other, it appears that Barco was not notified. When Barco thought the matter was over, he finds later that a judgment on his bond was taken by the United States against him. The district attorney stated that it was just routine, as when the record came to him, and the estreature had not been dissolved, he asked for judgment, as he does in all cases. However, the district attorney never has tried to levy on the judgment, as he knows it is in error, and has given Barco the chance to get this bill through. Barco is not, and never was, a professional bondsman. He is an automobile dealer of high reputation in West Palm Beach.

Therefore, your committee recommend favorable consideration to this bill, and append hereto the report of the United States Attorney General, together with other pertinent evidence.

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OFFICE OF THE ATTORNEY GENERAL,  
Washington, D. C., August 15, 1941.

HON. DAN R. McGEHEE,  
*Chairman, Committee on Claims,*  
*House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: I have your letter requesting my views concerning the merits of the bill (H. R. 4796) to provide for the cancelation of the judgment entered in favor of the United States against G. C. Barco, of West Palm Beach, Fla., on a forfeited bail bond in a criminal proceeding against Courtney Hardin in the United States District Court for the Southern District of Florida.

The records of this Department show that on June 26, 1927, Courtney Hardin was arrested on a charge of violating the National Prohibition Act. On July 2, 1927, he was released on bail in the sum of \$5,000, on which G. C. Barco and W. C. Knowles were sureties. The bond was made returnable at the next term of court to be held on the fourth Monday in April of 1928. Hardin failed to appear at the trial, which was called on May 7, 1928, and on August 4, 1928, the bond was forfeited.

On May 1, 1929, the defendant, following a plea of guilty, was fined in the sum of \$250, which, the record indicates, has been paid. Judgment was entered against the sureties on June 6, 1929. It is represented by the defendant's attorney that neither he nor his client received notice as to the trial date; that upon learning of the facts, the defendant surrendered.

Whether, under the circumstances, the bill should receive favorable consideration is a matter of legislative policy concerning which I prefer not to make any suggestions.

Sincerely,

FRANCIS BIDDLE,  
*Acting Attorney General.*

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D. C., May 21, 1941.

H. R. 4796, relief of G. C. Barco, companion to S. 1220.

Hon. DAN McGEHEE,  
Chairman, Committee on Claims,  
House of Representatives.

DEAR DAN: I am enclosing a copy of H. R. 4796, for the relief of G. C. Barco, introduced May 19, 1941, a companion bill to S. 1220.

Also enclosed is a brief containing the evidence in the case in support of the bill, the originals of which are on file with the Senate committee.

The whole proposition is that Barco put up a bond for defendant Hardin. Hardin did not appear when the case was called. Barco's attorney, Barco, and Hardin say that they were not notified. Evidently at that time the bond was estreated. But when Barco found out about Hardin's nonappearance, he got ahold of Hardin and they went down to the court and Hardin entered a plea of guilty and was fined or sentenced. At that time the estreature was supposed to have been dissolved, and in fact it was as to the other bondsmen, but some way or other it was not as to Barco and a man named Knowles. Then, when Barco thought the matter was over, he finds later that a judgment on the bond was taken by the United States against him and Knowles. The district attorney says that was just routine, as when the record came to him and the estreature had not been dissolved, he asked for judgment as he does in all cases. However, the district attorney never has tried to levy on the judgment, as he knows it is in error, and has given Barco the chance to get this bill through. Barco is not, or never was a professional bondsman. He is an automobile dealer of high reputation in West Palm Beach.

You will note that a copy of the attorney general's report on the case is in the file, in which he sets out the bare facts, and leaves it up to Congress. In view of this report, I feel that the bill can be sent to subcommittee without further ado, and then passed out of your committee.

If you agree, I will appreciate your having the bill referred to subcommittee and notifying me when same is done.

Thanking you and with kindest personal regards, I am

Yours sincerely,

PAT CANNON.

STATE OF FLORIDA,  
County of Duval, ss:

Before me, the undersigned authority, personally appeared Louis S. Joel, who, after being by me first duly sworn, deposes and says that he has read the affidavits of G. C. Barco, E. M. Baynes, Courtney Hardin, and W. G. Knowles, and that to the best of his recollection the statements therein contained are true; that he was assistant United States attorney, located at Miami, Fla., during the time mentioned in said affidavits; that the criminal docket in Miami at that time was badly overcrowded; that it is quite likely that an agreement to have a bond estreatment set aside under the circumstances set forth in the said affidavits may well have been overlooked or forgotten during the press of other matters then pending on the Miami docket; that he has no positive, independent recollection of the case, but is certain that if the facts were as stated in the affidavits he would have agreed for the estreatment against Barco and Knowles to have been set aside.

Sworn to and subscribed before me this — day of March A. D. 1940.

Notary Public State of Florida at Large.

My commission expires:

(The original of the above affidavit is on file with the clerk of the Claims Committee of the Senate.)

STATE OF FLORIDA,  
County of Palm Beach:

Before me, an officer authorized by law to administer oaths, personally appeared G. C. Barco, who after being duly sworn deposes and says on oath that some time during the year 1927 your deponent signed a bond in the sum of \$5,000 as surety for Courtney Hardin for violation of the prohibition law. Your deponent signed



this bond along with W. G. Knowles, as sureties, and the bond was executed in Fort Pierce, Fla., before United States Commissioner Russell. At the time that this bond was signed your deponent was informed that whenever this case would be tried that he and the defendant would be notified when the case would be called for trial. It was explained to him that the law did not require this, but that it was a policy of the district attorney's office at that time, and that the defendant need not come to court until he was notified.

Your deponent further says that the first time that he learned, or was notified, that this case had been called for trial was when he was served with the notice of the estreature of the bond by the court. Your deponent further says that he then got in touch with Mr. Knowles, and that he found that the defendant, Courtney Hardin was in Connecticut at that time. They then got in touch with the defendant, Courtney Hardin, and he came back to Florida from Connecticut. They then went to Miami with Courtney Hardin where they explained to the district attorney that they did not know that the case had been set for trial, and it was understood by your deponent at that time that the estreature of the bond would be set aside after they had explained the matter to the district attorney. Deponent further says that it is his recollection that he talked with Mr. Louis S. Joel about the matter, and who was at that time assistant district attorney, located in Miami. It was further explained to the assistant district attorney that it was the desire of the defendant to enter a plea of guilty. After that time this plea of guilty was entered by the defendant, and he paid a fine of \$250.

Deponent says that there were other defendants in the same particular case, and he understood that the estreature had been set aside as to all defendants. Having this understanding, your deponent says that he did nothing else with reference to the estreature and did not know until several years afterward that a final judgment had been taken against him in this cause and then it was too late.

Your deponent further says that he is engaged in the agency for Ford automobiles at West Palm Beach, Fla.; that he has never been a professional bondsman in all his life; that he signed this bond for the defendant, Courtney Hardin, only as an accommodation to the defendant; that he did not receive one penny for signing this particular bond as surety.

Deponent further says that he was advised at the time that this case was called that the docket in Miami was very congested and that they had many cases for trial. Deponent further says had he been advised or notified that the case was set down for trial at any particular time that he could have easily notified Hardin himself and, he believes, Hardin would have answered in the court at any time that he was notified. Deponent further says that he believes that the real, true cause in this matter was because of some oversight in not setting aside the forfeiture of the bond against Hardin as was done against some of the other defendants in the case.

G. C. BARCO.

Sworn to and subscribed before me on this the 27th day of February 1940.

[SEAL]

MYRTLE T. GROS,

*Notary Public, State of Florida, At Large.*

My commission expires October 29, 1943.

(The original of the above affidavit is on file with the clerk of the Claims Committee of the Senate.)

STATE OF FLORIDA,  
*County of Palm Beach:*

Before me, an officer authorized by law to administer oaths, personally appeared W. G. Knowles, who after being duly sworn deposes and says on oath, that sometime during the year 1927, your deponent signed a bond in the sum of \$5,000, as surety for Courtney Hardin for violation of the prohibition law. Your deponent signed this bond along with G. C. Barco as sureties, and the bond was executed in Fort Pierce, Fla., before United States Commissioner Russell. At the time that this bond was signed your deponent was informed that whenever this case would be tried that he and the defendant would be notified when the case would be called for trial. It was explained to him that the law did not require this, but that it was the policy of the district attorney's office at that time, and that the defendant need not come to court until he was notified.

During the year 1929 your deponent found out that this case had been called, and that the bond was estreated against Courtney Hardin. As soon as he learned

of this fact he went to Miami to look into the matter and found that this was true. He told the officers that he would get in touch with Courtney Hardin and have him come back to Florida. Deponent then got in touch with Courtney Hardin, who was then in Connecticut, and soon thereafter Courtney Hardin came back to Florida and went to Miami, and made a new bond in the sum of \$2,000. Deponent says that the Government was not put to any expense whatever in bringing Hardin back. In fact, Hardin came back at his own expense and as soon as he learned that he was wanted with reference to this case. Deponent further says that Hardin made this bond some time in 1929, and the following year went back to Miami, and entered a plea of guilty and was fined \$250. Deponent says that it was his understanding that the bond had been forfeited against Hardin and that the forfeiture would be set aside. This was the understanding with reference to all the defendants in this particular case, and there was a mistake made when this was not done. Deponent further says that he is not a professional bondsman and did not receive any sum whatever for signing this particular bond, as surety.

Deponent further says that he was advised at the time that this case was called that the docket in Miami was very congested and that they had many cases for trial. Deponent further says had he been advised or notified that the case was set down for trial at any particular time that he could have easily notified Hardin himself and he believes Hardin would have answered in the court at any time that he was notified. Deponent further says that he believes that the real true cause in this matter was because of some oversight in not setting aside the forfeiture of the bond against Hardin as was done against some of the other defendants in the case.

W. G. KNOWLES.

Sworn to and subscribed before me on this the 30th day of September 1939.

[SEAL]

MYRTLE T. GROS,

Notary Public, State of Florida at large.

My commission expires October 29, 1939.

(The original of the above affidavit is on file with the clerk of the Claims Committee of the Senate.)

STATE OF FLORIDA,  
County of Palm Beach:

Before me, an officer authorized by law to administer oaths, personally appeared Courtney Hardin, who after being duly sworn deposes and says on oath, that he is the Courtney Hardin named in the case of *United States v. Courtney Hardin, Manley Symonette, Edward Kelley, William J. Kelley, and W. H. Lowe*, being case No. 1586 on the Miami criminal docket of the United States district court. Deponent says that on or about the 26th of June 1927 he was arrested for violation of the prohibition law, and released on bond in the sum of \$5,000 on July 2, 1927, and that G. C. Barco and W. G. Knowles were sureties upon his bond. Deponent says that he was advised at the time of his release upon this bond that he would be notified by the district attorney's office at Miami whenever his case would be called for trial at Miami. Deponent further says that he was advised further that at this time there were many cases pending in the Miami district court ahead of this case, and that it would be some time before this case was ever called. Deponent further says that in March 1928 he went north and was up in New York, New Jersey, and Connecticut for some several months. Deponent says that he was in Milford, Conn., and heard from one of his bondsmen that he wanted him to return to West Palm Beach to look after a case, in which he had signed your deponent's bond. That your deponent then immediately returned to West Palm Beach, as soon as he learned of this and saw Mr. G. C. Barco and Mr. W. G. Knowles, and then went to Miami to get the matter straightened. Deponent says that when he got to Miami, he returned to West Palm Beach, and later on went down to Miami and made a \$2,000 bond in this same case. Deponent further says that some time in April 1929 he was notified to be and appear in the district court in Miami in this case, and that he went to Miami on the 1st day of May 1929, and entered a plea of guilty. At that time it was understood between his attorney and the district attorney, that the other defendants, Manley Symonette, Edward Kelley, William J. Kelley, and W. H. Lowe would be dismissed and that your deponent would be fined the sum of \$250, and that this fine of \$250 was finally paid. It was further understood by your deponent that the forfeiture of the bond against his sureties would be set aside. Deponent further says that he was never served with any notice of the forfeiture of this bond and did not know but that the forfeiture had been set aside until just

a few years ago. Deponent says that he did not run away from this case or knowingly keep away from the district court of Miami, when the case was called, but that as soon as he knew that he was wanted in this matter that he immediately came back home and went to Miami for the purpose of arranging the matter properly, and when his case was called the next year in Miami, he went down there and entered a plea of guilty and paid his fine. Deponent further says that the real, true reason that he went north was on account of some family trouble and worry from that cause, and he did not leave here for any other purpose than that, and that he did not leave here to escape from his bond in anywise or in any manner.

COURTNEY HARDIN.

Sworn to and subscribed before me on this the 29th day of September 1939.

Notary Public, State of Florida, At Large.

My commission expires October 29, 1939.

(The original of the above affidavit is on file with the clerk of the Claims Committee of the Senate.)

STATE OF FLORIDA,  
County of Palm Beach:

Before me, an officer authorized by law to administer oaths, personally appeared, E. M. Baynes, who after being duly sworn deposes and says on oath that he was employed by Courtney Hardin sometime during the year 1928 to represent him in a criminal case then pending in the United States District Court at Miami, Fla. Deponent further says that he then investigated the matter and found out that the bond had been estreated against the defendant in that case, together with several other defendants. Your deponent went with the defendant to Miami with the bondsmen in order to adjust the matter and for the purpose of entering a plea of guilty for the defendant, Courtney Hardin. For some reason, and to the best of my recollection it was because there was no judge there at that time. The plea of guilty was not entered until May 1929, at which time the defendant was fined \$250, and this fine was paid. From notations in my record it was sometime in September 1928, that I went with the defendant to Miami for the purpose of entering a plea of guilty and to get the estreature set aside. It is my recollection that I talked with Hon. Louis S. Joel at that time with reference to this case. I cannot be positive as to the person to whom I talked at that is a long time ago. I do have a recollection that the estreature was to be set aside when the defendant entered a plea of guilty. That plea of guilty was entered on May 1, 1929, as shown by my records.

At this time the criminal docket at Miami was very congested, and no judge had been designated for the Miami division at that time. There was only one United States district judge in the whole southern district of Florida, who was then in Jacksonville. The judges trying these cases were sent down from other States. It was the custom and practice of the assistant district attorney when these cases were set down for trial to give notice to the defendants and their bondsmen the date the case was set for trial. The bondsmen went immediately and explained to the assistant district attorney that they did not get any notice, and the defendant also made this statement. In the estreature of the bond the praecipe for scire facias was not entered until August 4, 1928. My records show that we were there in September 1928, and also that I went back on May 1, 1929, and entered a plea of guilty for the defendant, Courtney Hardin.

It was my understanding that this estreature would be set aside and I did not know of any final judgment being entered in the case until some years after that when the bondsmen and the defendant came to see me about it.

The reason that I am positive in my mind and recollection that the estreature was to be set aside is because I believe that I certainly would have taken some steps in the United States District Court about the matter before the final judgment was entered.

Sworn to and subscribed before me on this the — day of February 1940.

Notary Public, State of Florida at Large.

My commission expires: —.

(The original of the above affidavit is on file with the clerk of the Claims Committee of the Senate.)



*United States of America No. 1586-M-Criminal v. Courtney Hardin, et al.*

Docket entries

April 14, 1928: Information filed.  
 May 7, 1928: Plea of not guilty Symonett, W. H. Lowe.  
 May 14, 1928: Bonds Courtney Hardin, Edward Kelly, and Wm. J. Kelly, estreated, order for *capias*, bond \$500.  
 May 14, 1928: Cont. for term.  
 May 21, 1928: *Capias* issued Courtney Hardin, Edward Kelly.  
 May 17, 1928: Forfeiture set aside as to Edward Kelly.  
 June 21, 1928: *Capias* for Courtney Hardin returned unexecuted.  
 September 15, 1928: *Capias* issued Wm. J. Kelly.  
 September 14, 1928: Petition for order setting aside forfeiture of E. H. Kelly and recalling *capias*.  
 September 14, 1928: Order setting aside forfeiture of E. H. Kelly and recalling *capias*.  
 September 14, 1928: *Capias* E. H. Kelly returned unexecuted.  
 May 1, 1929: Plea guilty as to Hardin.  
 May 1, 1929: Fine \$250 without costs as to Hardin.  
 May 1, 1929: Order of dismissal as to Symonett, Kelley, William Kelly, and Lowe.  
 Sept. 14, 1929: *Capias* Wm. J. Kelly returned unexecuted.  
 November 30, 1929: Order for destruction of seized liquor.  
 December 10, 1929: Order for commitment for failure to pay fine.  
 December 11, 1929: Commitment issued.  
 February 11, 1930: Commitment returned unexecuted.

*United States No. 1045-M-Civil v. Courtney Hardin, principal; G. C. Barco, W. G. Knowles, sureties*

Docket entries

August 4, 1928: *Praeceptum* for *scire facias*.  
 August 7, 1928: *Scire facias* issued returnable September rule day 1928.  
 August 18, 1928: *Scire facias* returned executed as to G. C. Barco and W. G. Knowles, unexecuted as to Courtney Hardin.  
 June 6, 1929: Judgment by default.  
 June 6, 1929: Final judgment favor of plaintiff for \$5,000 as to Barco and Knowles (no cost provided).  
 June 11, 1929: *Fi fa* issued.  
 January 19, 1934: Order dismissing as to Courtney Hardin (filed case No. 144-M U. S. C.).  
 September 25, 1937: *Fi fa* returned nulla bona.  
 August 27, 1938: Partial release of judgment.

MIAMI, FLA., January 22, 1934.

Miami Minute Book No. 9, page 757.

In the United States District Court in and for the Southern District of Florida

In re: Order dismissing various *scire facias* proceedings as to unserved defendants.

This cause coming on to be heard on motion of the United States Attorney for the Southern District of Florida, and it appearing to the court that on the civil dockets in the Miami division there are a number of *scire facias* proceedings in which judgments have been entered in favor of the United States as to one or more defendants, and the cases are still pending as to the defendants who were not served with *scire facias*, the marshal having been unable to locate such unserved defendants; and the court being fully advised in the premises; it is thereupon

ORDERED, That the following civil cases on the Miami docket be and the same are hereby dismissed as to the defendant or defendants named in each case:

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No. 1045 Courtney Hardin.

DONE AND ORDERED at Miami, Fla., this 19th day of January A. D. 1934.

HALSTEAD L. RITTER,  
*United States District Judge.*

